

**LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 6961

BILL NUMBER: HB 1347

NOTE PREPARED: Mar 17, 2014

BILL AMENDED: Mar 13, 2014

SUBJECT: Court Administrative Matters.

FIRST AUTHOR: Rep. Mayfield

FIRST SPONSOR: Sen. Steele

BILL STATUS: Enrolled

FUNDS AFFECTED: ☒ **GENERAL**
DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: This bill has the following provisions:

- A. *Secretary of the County Commission of Public Records* – It requires that the clerk of the circuit court or the county recorder must be the secretary of the county commission of public records, as determined by: (1) mutual agreement of the clerk and the recorder; or (2) if a mutual agreement cannot be reached, an affirmative vote of the majority of the members of the commission.
- B. *Duties and Responsibilities of the Clerk of the Circuit Court* – It allows the clerk to keep the *lis pendens* record, the execution docket, and the register of witness fees and court fees in electronic form if all information is available to the public to inspect or copy in the electronic form. It eliminates: (1) the requirement that the clerk attend court proceedings; and (2) the per diem paid the clerk or a deputy for attending court.
- C. *Administrative Fee* – It allows the clerk to retain an administrative fee of up to \$3 from any excess amount of fine, penalty, fee, or bail collected and refunded by the clerk.
- D. *Costs of Mailing Certified or Registered Mail* – It requires the cost of: (1) an initial mailing of a document by certified or registered mail to be paid out of court costs and fees; and (2) any additional certified or registered mailings to be paid by the person requesting the additional mailings.
- E. *Circuit Court Judgment Docket* – It provides that a circuit court judgment docket must contain: (1) all civil judgments in which one party owes money to another party; and (2) any entry that is required by a statute. It provides that a judgment docket may not include: (1) judgments in which money is owed by a person to a state, a county, or another governmental entity as a result of a criminal conviction or a violation of an infraction or ordinance; or (2) except for cases in which the state obtains a judgment for unpaid taxes, judgments in which a governmental entity is the sole creditor. It allows a clerk of a circuit court to keep a judgment docket in: (1) an electronic format; (2) a paper format; or (3) both an electronic and a paper format. It provides that the judgment docket shall be made available for public inspection

at the office of the clerk during regular office hours.

- F. *Garnishment Proceedings* – It provides that, if the wages of a judgment debtor are being garnished: (1) a clerk is not required to notify the employer of the judgment debtor to suspend the garnishment after the judgment is satisfied; and (2) a request to suspend the garnishment must be submitted by the judgment debtor to the court that rendered the judgment. It makes changes to the maximum part of the aggregate disposable earnings of an individual for any workweek that is subjected to garnishment to enforce the payment of any judgments against the individual. If a judgment debtor has failed to comply with an agreed order in the action, the bill requires a court to order: (1) any property, income, or profits of a judgment debtor not exempt from execution or process or any debt due to the judgment debtor to be applied to the satisfaction of the judgment and forbid transfers of property and choses in action; and (2) that the judgment or execution is a continuing lien upon the income or profits of the judgment debtor in the hands either of the judgment debtor or any other person from the date the order is served upon the person indebted to the judgment debtor to the extent that the lien, together with all similar liens, is allowed by law. It provides that: (1) if a court has issued a garnishment order to a third party (such as an employer) that provides income to a judgment debtor; (2) the garnishment order no longer applies to the third party due to a change in circumstances, including a change in employment; and (3) the judgment creditor files a petition describing the changed circumstances and providing contact information for a new third party who employs or otherwise provides income for a judgment debtor; the court may, without holding a hearing, cancel the first garnishment order and issue a new garnishment order to the new third party.
- G. *Study Committee Assignment* – It urges the Legislative Council to assign the topic of small claims court administration to an interim study committee.

Effective Date: July 1, 2014.

Explanation of State Expenditures: *Study Committee Assignment* – The Legislative Council could assign the topic to an existing interim study committee or establish a new interim study committee to study this topic during the next interim. Interim study committees operate on budgets established by the Legislative Council based on committee size. Legislative Council resolutions in the past have established budgets for interim study committees in the amount of \$9,500 per interim for committees with fewer than 16 members and \$16,500 for committees with 16 members or more. If the Legislative Council were to assign this topic to an existing committee and the committee were to have any extra meetings to address this topic, there would be additional expenditures for legislator per diem and travel reimbursement for the committee members. Any additional expenditures must be within the committee's budget.

Explanation of State Revenues:

Explanation of Local Expenditures: *Secretary of the County Commission of Public Records* – Some workload shift may occur if the responsibilities of being the secretary of county commission of public records are switched between the clerk of the circuit court and the county recorder. Under current law, the clerk of the circuit court is the secretary of the county commission of public records.

Duties and Responsibilities of the Clerk of the Circuit Court – The bill would allow the clerk to keep records in electronic form, instead of maintaining a book or hard copy record. Any workload reduction will depend on the format that the clerk chooses to maintain records and the relative cost of the two systems. The records that may be maintained in electronic form include *lis pendens* records, the execution docket, and a register of witness and other court fees. Additionally, rather than delivering civil orders and decrees along with recording fees to the county recorder, the recorder will record the certified copy and collect any applicable

recording fee. The cost of delivering judgements is unknown.

The clerk would not have to attend court as specified in statute for record-keeping duties and for cases involving private judges. Also, the clerk would not have to attend court for the following specific courts.

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| St. Joseph Probate Court | Cass Circuit and Superior Court |
| Allen Superior Court | Dubois Circuit and Superior Court |
| Bartholomew Circuit and Superior Court | Tippecanoe Circuit and Superior Court No. 2 |

Costs of Mailing Certified or Registered Mail – The bill would require the clerk to pay for the initial mailing by certified or registered mail of documents filed with the court from the court costs and fees. This measure could reduce future mail expenditure by charging a person requesting the documents. There are not sufficient data to indicate how much postage is currently spent on initial mailings or additional requests. [In CY 2012, 54 county circuit courts reported total postage expenditures of \$266,800, an average of \$4,940 per court reporting. There was also a total \$1,400 in shipping costs reported by three counties.]

Circuit Court Judgment Docket – This provision specifies the contents of a circuit court judgment docket and prohibits the recording of any fines or fees associated with criminal convictions or violations of infractions or ordinances.

Explanation of Local Revenues: *Administrative Fee* – Under the bill, the circuit court clerk could retain a \$3 circuit court administrative fee from the excess payment of bail, fines, civil penalties, court fees, costs or user fees, or from the preparation, duplication, or transmission of a document. There is no information available to determine how many excess payments may be received by the circuit courts.

State Agencies Affected:

Local Agencies Affected: Circuit courts, county recorders, clerks of the circuit court

Information Sources: *2012 Trial Court Statistics*, State Court Administrator's Office; Gateway for Local Government.

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